

MEMORANDUM

JANUARY 23, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY
AND STEPHEN COYLE, DIRECTOR

FROM: EDITH M. NETTER, ASSISTANT DIRECTOR FOR
LAND USE AND ENVIRONMENTAL POLICY AND
LINDA BOURQUE, DIRECTOR OF ZONING

SUBJECT: ZONING TEXT AMENDMENT -- ARTICLE 26A and 26B

In December 1983 the Boston Zoning Commission amended the Boston Zoning Code by adopting Article 26, and thereby creating the Development Impact Project process, or the so-called linkage mechanism, for the creation of low- and moderate-income housing. The current linkage formula requires developers of large-scale commercial projects to pay \$5 per square foot for every square foot over 100,000 square feet of new or substantially rehabilitated space. The sum is payable over twelve years beginning two years after the issuance of the building permit, or upon issuance of the certificate of occupancy, whichever comes first. Developers may choose either to contribute the money to a fund or to build the housing directly.

Article 26A, which is proposed to be the new housing linkage program, provides that developers of downtown commercial buildings will make payments of \$5 per square foot for each square foot over 100,000 square feet of floor area of commercial space to a Neighborhood Housing Trust over a period of seven years, with the first payment due upon issuance of a building permit. Developers of projects over 100,000 square feet in the city's neighborhoods will continue to make the payments over twelve years. Twenty percent of the housing funds will be targeted to impacted neighborhoods.

Article 26B proposes a Jobs Contribution Grant of \$1 per square foot for each square foot of floor area over 100,000 square feet to be used for job training programs. Under this new program, contributions to the Neighborhood Jobs Trust will be collected in two annual installments, the first of which will be made upon issuance of a building permit.

Under Articles 26A and 26B, the housing and jobs contribution will be recalculated three years after the passage of these amendments, and every three years thereafter. The recalculation will be based on economic trends in the development activity of the city, as well as employment and housing trends.

As Boston's economy has boomed over the economic benefits of this growth have not reached many of the city's residents. Low-and moderate income people are being priced out of the housing market or are paying in excess of 30% of their income on housing. In addition, large segments of the economy remain unemployed or underemployed.

This amendment proposes payment of the housing contribution over a shorter period of time, thereby increasing the funds available for low- and moderate-income housing. While the city's vacancy rate has dropped to two percent, the population has increased. This, coupled with the pressure on housing generated by downtown commercial growth necessitates the city's acceleration of its efforts to increase the supply of low- and moderate-income housing. The additional money collected through linkage will help meet this demand.

During the last two decades the number of jobs in Boston has increased while the percentage of resident employment has decreased. Part of the reason for unemployment and underemployment in the city is a "skills gap", or a mismatch between the skills required by the city's traditional manufacturing and production economy versus the new service and technology oriented economy. As the economy has shifted, residents have not acquired the new skills necessary to compete in the job market. Monies from the Neighborhood Jobs Trust will fund employment and job training initiatives to train residents for jobs in new businesses.

Drafts of Articles 26A and 26B are attached. Minor changes in language may be made in the final draft, but only in substantial accord with the attached petitions:

I strongly urge that the Authority authorize the Director to petition the Zoning Commission to adopt these amendments to the Boston Zoning Code or a version of them which is in substantial accord with the attached draft petitions.

VOTED:

That the Boston Redevelopment Authority hereby authorizes the Director to petition the Zoning Commission for these amendments to the Boston Zoning Code or a version which is in substantial accord with the draft petitions submitted to the Authority at its meeting of January 23, 1986.

New Requirements in the Linkage Program

Q. How was linkage established?

A. In December 1983, the Boston Zoning Commission established a "linkage" mechanism under the Boston Zoning Code for the creation of low- and moderate-income housing. It did so by adopting Article 26 of the Zoning Code which requires that developers of large-scale commercial projects make payments into a fund to create affordable housing.

Q. What is the existing linkage program?

A. The current linkage formula requires developers to pay \$5 per square foot for every square foot over 100,000 square feet of new or substantially rehabilitated commercial space. Payments are made in equal installments over twelve years, beginning two years after the issuance of the building permit or upon issuance of the certificate of occupancy, whichever comes first.

Q. Why is a linkage program needed?

A. The rapid growth of development in Boston indicates that Boston is a prosperous city. But a brief look at some of the city's demographic and housing statistics tells us that this prosperity is not reaching all of Boston's citizens. For instance, Boston's population has the fifth lowest median household income of the country's largest cities; the share of persons in "poverty status" in Boston is twice that of the metropolitan area; and more than 20 percent of the residents of Boston in 1980 were in "poverty status", a 5 percent increase from 1970.

Bostonians have not always been able to capitalize on the opportunities provided by the city's economic growth. While the city's extraordinary development boom has generated almost 50,000+ new jobs since 1976, surveys show that Boston residents have not captured a significant share of the higher skilled and higher paying jobs, and consequently, cannot afford adequate housing. In addition, unless we provide Bostonians with the education and job training necessary to compete for higher skilled positions, Boston residents will not share in the prosperity generated by our economic success. For example, only 192,360 Boston residents hold jobs in Boston --- representing 35% of the available positions for the city's workforce. Bostonians are losing out to suburban counterparts because residents lack the education and skills to compete for higher paying positions.

Q. Why is there a need for additional housing?

A. Boston is a city of renters. More than 70 percent of all Boston households rent rather than own their homes. This distinguishes Boston not only from surrounding suburbs, but also from many cities across the country. In 1980, almost 40 percent of Boston's renters were paying rent in excess of 30 percent of their income.

Furthermore, Boston's current housing stock is in trouble. Not including public housing, approximately 900 buildings containing 3000 dwelling units are vacant and boarded. This represents 2 percent of the city's total stock, a higher percentage than in most other cities, including New York, Cleveland, Buffalo, and Newark.

Q. Why is job training so important?

A. Economic development throughout the city must be linked with jobs. In order to significantly reduce the income gap between Bostonians and their metropolitan neighbors, job training will insure that residents are better skilled. The immediate goals of such a program include: developing a comprehensive education and job training system for Boston residents; involving Boston's business and private sector employers, programatically and financially in this effort; and increasing the percentage of Boston jobs held by Boston residents.

Q. What are the new regulations for the linkage program?

A. The major changes include increasing the payment by \$1 per square foot to \$6 per square foot, reducing the payback period for downtown projects from twelve to seven years, requiring that payments begin at the start of construction, establishing a job training program and targeting 20% of the linkage payments to the neighborhood where development occurs.

Q. The additional \$1 per square foot will be used to fund job training programs. Why?

A. Downtown office development and the need for service sector jobs have risen dramatically in Boston over the last ten years. At the same time, the city's traditional manufacturing employment base has been eroded. Additional job training programs are needed to narrow the job skills gap created by new commercial development in Boston, and to enable Boston residents to compete for higher paying positions. The additional \$1 per square foot will raise approximately \$10 million over 7 years. The jobs payment contribution will also begin to fill the gap created by recent cutbacks in Federal subsidies.

- Q. Will the new regulations affect how the BRA processes DIP (Development Impact Plan Projects) or linkage projects?
- A. No. The BRA will continue to process applications in the same manner.
- Q. If the payback period for housing is being shortened, how will this affect projects outside the downtown?
- A. By shortening the payback period for downtown projects, money will be available sooner for affordable housing. To illustrate, at a 10 percent rate of discount, \$5 paid in equal installments over 12 years is worth \$2.58 today. By comparison, \$6 paid in equal installments over seven years upon issuance of the building permit is worth \$4.59 today. Neighborhood projects will continue to generate linkage payments over a twelve year period.
- Q. Has any linkage money been collected by the city?
- A. To date, approximately 35 million dollars have been earmarked through agreements with developers. The first payments are due April, 1987.
- Q. Where will the housing linkage funds be spent?
- A. Under the new proposal, 20% of the housing contribution will be targeted to impacted neighborhoods.
- Q. When will the linkage fees be collected?
- A. The \$1 per square foot earmarked for job training will be made in two equal annual installments, the first of which will be due upon issuance of the building permit. The housing contribution will be collected over a 7 year period upon issuance of the building permit.

Q. Do other cities have linkage programs?

A. Yes. San Francisco, Seattle, Princeton and Santa Monica all have linkage program to raise additional funds for housing. San Francisco's programs also requires payments for child care and transit improvements. Boston is the first city in the country to incorporate into zoning regulations a fee for job training.

The Boston Redevelopment Authority hereby petitions to amend the text of the Boston Zoning Code, as amended, under Chapter 213A of the laws of 1980, as amended, as follows:

A. By inserting, under Article 12 of said Code, the following words:

ARTICLE 25A.

DEVELOPMENT IMPACT PROJECTS - HOUSING

SECTION 25A-1. Statement of Purpose. The purpose of this article is to provide for public health, safety, convenience and welfare by providing for the siting and siting of projects of substantial scale, to ensure that the City's housing stock is enhanced by a variety of housing types, sizes and styles, and to ensure that the City's housing stock is enhanced by a variety of housing types, sizes and styles, and to ensure that the City's housing stock is enhanced by a variety of housing types, sizes and styles.

1. Afford review and regulation of large-scale and other development projects which directly or indirectly displace low or moderate income residents from housing units or contribute to an increase in the costs of housing.
2. Increase the availability of low and moderate income housing by requiring developers, as a condition of the grant of a license to build, to provide a certain amount of low and moderate income housing or to make a monetary contribution to the provision of such housing.

SECTION 25A-2. Definition.

1. "Development Impact Project", as developed by the City to ensure that projects of substantial scale or other projects which directly or indirectly displace low or moderate income residents from housing units or contribute to an increase in the costs of housing, shall be subject to the provisions of this article. The City shall have the authority to require developers, as a condition of the grant of a license to build, to provide a certain amount of low and moderate income housing or to make a monetary contribution to the provision of such housing.

TEXT AMENDMENT NO.
THE COMMONWEALTH OF MASSACHUSETTS
CITY OF BOSTON
IN ZONING COMMISSION

The Boston Redevelopment Authority hereby petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956, as amended as follows:

A. By inserting, below Article 26 of said Code, the following article:

ARTICLE 26A

DEVELOPMENT IMPACT PROJECTS - HOUSING

SECTION 26A-1. Statement of Purpose. The purpose of this article is to promote the public health, safety, convenience and welfare; to prevent overcrowding and deterioration of existing housing; to preserve and increase the City's housing stock; to establish a balance between new, large-scale real estate development and the housing needs of the City and to mitigate the impacts of large-scale development on the available supply of low and moderate income housing, by provisions designed to:

1. Afford review and regulation of large-scale real estate development projects which directly or indirectly displace low or moderate income residents from housing units or contribute to an increase in the costs of housing.
2. Increase the availability of low and moderate income housing by requiring developers, as a condition of the grant of deviations from the Zoning Code or the grant of an amendment to the zoning map or text, to create low and moderate income housing or to make a housing contribution grant to the Neighborhood Housing Trust ("Trust").

SECTION 26A-2. Definitions.

1. "Development Impact Project", any development in the City in which it is proposed to erect a structure or structures having a total gross floor area (exclusive of all accessory parking garage space) in excess of one hundred thousand (100,000) square feet or to enlarge or extend a structure or structures so as to increase its (or their) gross floor area (exclusive of all accessory parking garage space) by more than one hundred thousand (100,000) square feet or to substantially rehabilitate a structure or structures having, or to have, after rehabilitation, a gross

floor area (exclusive of all accessory parking garage space) of more than one hundred thousand (100,000) square feet; which structure or structures is (are) intended for a use for which the use item number is listed in Table D, Section 26A-3(2)(a), or, for a use for which the use item number is not listed if such Project will directly result in a reduction in the supply of low and moderate income dwelling units as determined by the Boston Redevelopment Authority ("Authority") and which Project requires a variance, conditional use permit, exception, or zoning map or text amendment.

2. "Development Impact Project Plan", a plan for a project which is a Development Impact Project. The Plan shall set forth the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the structure or structures, densities, projected number of employees, proposed traffic circulation, parking and loading facilities, access to public transportation, and proposed dimensions of structures, and may include proposed building elevations, schematic layout drawings and exterior building materials, the neighborhood where the Project is located and the adjacent neighborhoods, and such other matters as the Director of the Authority deems appropriate to his consideration of the proposed construction.
3. "Development Impact Project Contribution", the creation, by the Project applicant, of low and moderate income housing units by means of the Housing Creation Option, or the grant and payment of a sum of money by the Project applicant by means of a Housing Contribution Grant at such rate and in such amount as set forth in Section 26A-3(2), to and for the exclusive benefit of the Neighborhood Housing Trust.
 - (a) The Housing Creation Option shall be met by creating or causing to be created housing units, for occupancy exclusively by low and moderate income residents of the City, at a cost at least equivalent to the amount of the Housing Contribution Grant, and in conformity with written regulations to be adopted by the Authority after public notice and hearing. The actual Housing Creation Contribution may be approved by the Authority only after public notice and hearing.
 - (b) The Housing Contribution Grant shall be made to the Neighborhood Housing Trust in seven (7) equal, annual installments, the first installment due upon the issuance of a building permit. The remaining six (6) payments of the Grant shall be due and payable annually on the anniversary of the first payment. All payments of the Housing Contribution Grant constituting the grant shall be made to the Collector-Treasurer of the City as custodian pending acceptance of such payments for the Trust by the City. Any payments made by the Project applicant to the Neighborhood Housing Trust, on account of the Housing Payment Option, shall be credited against any amounts due to said Trust on account of any neighborhood impact excise which may be assessed by the City.
 - (c) Twenty (20%) percent of any Housing Payment Contribution shall be reserved for the neighborhood or neighborhoods where or adjacent to where the Project is located, as defined in the approved Development Impact Project Plan.

4. "Substantially rehabilitate", to cause alterations or repairs to be made, to a structure or structures, costing in excess of fifty (50%) percent of the physical value of the structure or structures. Physical value of a structure or structures shall be based on the assessed value as recorded on the assessment rolls of the City as of the January 1 preceding the date of the application for Development Impact Project Plan approval.
5. "Neighborhood Housing Trust", a Massachusetts public charitable trust created under the laws of the Commonwealth on November 19, 1985 and administered by the Collector-Treasurer of the City as managing trustee or another trust, if passed by the Council and approved by the Mayor.
6. "Public agency", a department, agency, board, commission, authority, or other instrumentality of the Commonwealth, or of one or more political subdivision(s) of the Commonwealth or of the United States.
7. "Low and moderate income residents", households located in the city whose total annual income is not more than eighty percent (80%) of the median income for the Boston area as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1974, as amended.

SECTION 26A-3. Development Impact Project Requirements. No variance, conditional use permit, exception or zoning map or text amendment for a Development Impact Project shall be granted or adopted unless the following requirements are met:

1. The Authority, after a public meeting, shall have approved a Development Impact Project Plan. No Plan shall be approved by the Authority unless the Authority finds that the Plan conforms to the general plan for the City as a whole and that nothing in such Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare; and
2. The person or persons making application for a variance, conditional use permit, exception of zoning map or text amendment to erect, substantially rehabilitate, enlarge, or extend a structure pursuant to Development Impact Project Plan shall also have entered into an agreement with the Authority to make a Development Impact Project Contribution.
 - (a) For each use listed below, in Table D, a Housing Contribution Grant of five dollars (\$5.00) for each square foot of gross floor area in excess of one hundred thousand (100,000) square feet, shall be required. Uses, other than accessory parking, that are accessory to the uses listed in Table D shall also be subject to the Housing Contribution Grant requirement.

TABLE D: Development Impact Uses

<u>Use</u>	<u>Use Item Numbers</u>
Office	39, 39A, 40, 41, 42
Retail Business and Service	30, 31, 32, 34, 34A, 35, 36, 36A, 37, 37A, 38, 38A, 43, 44, 45, 46, 47, 48, 49, 60, 60A, 61
Institutional and Educational	16, 16A, 18, 19, 20, 20A, 21, 22, 22A, 23, 24, 29
Hotel and Motel, but not including Apartment Hotel	15

- (b) For mixed-use structures in which one or more of the above uses are combined, the above requirements shall apply if the gross floor area devoted to any one or more of the uses shall in the aggregate exceed one hundred thousand (100,000) square feet.
- (c) The formula (amount and rate of payment) for the Housing Contribution Grant for the use categories listed in Table D shall be subject to recalculation three (3) years after the effective date of this provision and every three (3) years thereafter. The Authority, after public notice and public hearing, when appropriate, shall make a recommendation to the Zoning Commission to amend the formula for the Housing Contribution Grant, based on a consideration of the following criteria:
- (i) Economic trends measured in terms including but not limited to development activity, commercial rents per square foot, employment growth, and inflation rates.
 - (ii) Housing trends measured in terms of, including but not limited to, vacancy rates for low and moderate income housing, and production statistics for new dwelling units.
- (d) The Commissioner of Inspectional Services shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a Development Impact Project Plan, unless the Director of the Authority has certified on the application therefor, and on each plan, drawing or specification filed with the Commissioner in connection therewith, that the plans have been subject to design review, and that the plans are consistent with the Authority-approved Development Impact Project Plan and that the applicant has entered into an agreement with the Authority, as provided in Sections 26A-2(3) and 26A-3(2).

3. The following are not Development Impact Projects and will not be subject to the Development Impact Project requirements:
 - (a) Any structure for which a building or use permit is lawfully issued before notice of hearing before the Zoning Commission has first been given respecting adoption of Article 26A, provided that construction work under such a permit is commenced within six months after its issue, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances;
 - (b) Any structure for which construction or permanent financing has been secured before notice of hearing before the Zoning Commission has first been given respecting Article 26A, as evidenced by an irrevocable written commitment of a lending institution or a recorded mortgage indenture, and by the borrower's bona fide payment of a loan commitment fee; or
 - (c) Any building or structure which is, or will be, wholly-owned by one or more public agencies.
4. Article 26A supplements and does not repeal Article 26, which shall continue to apply to Development Impact Project Plans that were approved pursuant to Article 26.

SECTION 26A-4. Applicability. The rate of payment set forth in Section 26A-2(3)(b) shall only apply to Development Impact Projects located in an area lying within the boundaries set forth below:

Beginning at the intersection of the southern bank of the Charles River and the centerline of Massachusetts Avenue and running southerly and southeasterly along the centerline of Massachusetts Avenue to the intersection with the centerline of Tremont Street;

Thence running northeasterly along the centerline of Tremont Street to the centerline of East Berkeley Street;

Thence running easterly along the centerline of East Berkeley Street and the West Fourth Street Bridge to the intersection with the centerline of Dorchester Avenue;

Thence running northerly along the centerline of old Dorchester Avenue to the intersection with the edge of land on the northwesterly side of Fort Point Channel;

Thence running northeasterly along the water's edge or the U.S. Pierhead line, whichever shall be more inclusive, to the Metropolitan District Commission Dam at the mouth of the Charles River;

Thence running across the southerly side of the Metropolitan District Commission Dam and along the southerly bank of the Charles River to the beginning point at the intersection thereof with the centerline of Massachusetts Avenue.

The payment schedule set forth in Section 26-2(3)(a) shall apply to Development Impact Projects located in all other areas of the City. Section 26-2(3)(a) provides in relevant part that:

The Housing Contribution Grant shall be made to the Neighborhood Housing Trust in twelve (12) equal, annual installments, the first installment due upon the issuance of a certificate of occupancy for the Project building or twenty-four (24) months after the granting of the building permit, whichever comes first. The remaining eleven (11) payments shall be due and payable annually on the anniversary of the first payment.

Twenty (20%) percent of any Housing Contribution Grant shall be reserved for the neighborhood or neighborhoods where or adjacent to where the project is located, as defined in the Development Impact Project Plan.

Where the boundary described above divides a Development Impact Project, the rate of payment set forth in Section 26A-2(3)(b) shall apply. Use item numbers 11, 12, 13, 13A, 14 and 17 shall be exempt from the provisions of Articles 26 and 26A.

SECTION 26A-5. Severability. The provisions of this Article are severable, and if any such provision or provisions shall be ruled invalid by any decision of court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Article.

- B. By adding to Section 6-3(f) after "Section 26-2," the phrases "Sections 26A-2 and 26B-2," and after "Section 26-3" a comma and the phrases "Sections 26A-3 and 26B-3."
- C. By adding to Section 6A-3(c) after "Section 26-2," the phrases "Sections 26A-2 and 26B-2," and after "Section 26-3" a comma and the phrases "Sections 26A-3 and 26B-3."
- D. By adding to Section 7-3(d) after "Section 26-2," the phrases "Sections 26A-2 and 26B-2," and after "Section 26-3," the phrases "Sections 26A-3 and 26B-3,".

Approved as to form:

Corporation Counsel

Petitioner: _____

By: _____

Stephen Coyle, Director

Address: _____

Tel. No. _____

Date: _____

TEXT AMENDMENT NO.
THE COMMONWEALTH OF MASSACHUSETTS
CITY OF BOSTON
IN ZONING COMMISSION

The Boston Redevelopment Authority hereby petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956, as amended, as follows:

A. By inserting, below Article 26A of said Code, the following article:

ARTICLE 26B

DEVELOPMENT IMPACT PROJECTS - JOB TRAINING

SECTION 26B-1. Statement of Purpose.

The purpose of this article is to promote the public health, safety, convenience and welfare and to mitigate the adverse impacts of new large-scale real estate development projects on existing development by providing for job training for low and moderate income people. In particular, the owners of new commercial uses, which are more capital intensive and less land intensive than industrial uses, can pay more for land than owners of manufacturing uses, therefore these uses directly result in higher land costs and indirectly cause further land price increases by increasing housing demand. Workers will therefore need to be trained so that they will have the job skills necessary to compete for these new jobs. This Article is designed to:

1. Afford review and to regulate large-scale real estate development projects which result in the creation of new jobs, requiring the creation of new job training programs or the expansion of existing ones.
2. Increase the opportunities for job training for low and moderate income people by requiring developers, as a condition of the grant of deviations from the Zoning Code or the grant of an amendment to the zoning map or text, to make a development impact payment to the Neighborhood Jobs Trust.

SECTION 26B-2. Definitions.

1. "Development Impact Project", any development in the City of Boston ("City") in which it is proposed to erect a structure or structures having a gross floor area (exclusive of all accessory parking garage space) in excess of one hundred thousand (100,000) square feet or to

enlarge or extend a structure or structures so as to increase its (or their) gross floor area (exclusive of all accessory parking garage space) by more than one hundred thousand (100,000) square feet or to substantially rehabilitate a structure or structures having, or to have, after rehabilitation, a gross floor area (exclusive of all accessory parking garage space) of more than one hundred thousand (100,000) square feet; which structure or structures is (are) intended for a use for which the use item number is listed in Table E, Section 26B-3; and which development requires a variance, conditional use permit, exception, or zoning map or text amendment.

2. "Development Impact Project Plan", a plan for a project which is a Development Impact Project. The Plan shall set forth the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the structure or structures, densities, projected number of employees, proposed traffic circulation, parking and loading facilities, access to public transportation, and proposed dimensions of structures, and may include proposed building elevations, schematic layout drawings and exterior building materials, and such other matters as the Director of the Boston Redevelopment Authority ("Authority") deems appropriate to his consideration of the proposed construction.
3. "Jobs Contribution Grant", the payment of a sum of money by the Project applicant, which rate of payment is set forth in Section 26B-3(1)(a), to or for the exclusive benefit of the Neighborhood Jobs Trust.
 - a. The Jobs Contribution Grant shall be made to the Neighborhood Jobs Trust in two (2) equal, annual installments, the first installment due upon the issuance of a building permit. The remaining payment shall be due and payable on the anniversary of the first payment. All Jobs Contribution Grants shall be made to the Collector-Treasurer of the City as custodian, pending acceptance of such payments for the Neighborhood Jobs Trust by the City. All Jobs Contribution Grants shall be credited against any amounts due to said Trust on account of any neighborhood impact excise which may be assessed by the City.
4. "Substantially rehabilitate", to cause alterations or repairs to be made, to a structure or structures, within any period of twelve (12) months, costing in excess of fifty (50%) percent of the physical value of the structure or structures. Physical value shall be based on the assessed value as recorded on the assessment rolls of the City as of January 1 next preceding the date of the application for Development Impact Project Plan approval.
5. "Neighborhood Jobs Trust", a Massachusetts public charitable trust created under the laws of the Commonwealth on November 19, 1985 and administered by the Collector-Treasurer of the City as managing trustee or another trust, if passed by the Council and approved by the Mayor.
6. "Public agency", a department, agency, board, commission, authority, or other instrumentality of the Commonwealth, or of one or more political subdivision(s) of the Commonwealth, or of the United States.

SECTION 26B-3. Development Impact Project Requirements. No variance, conditional use permit, exception or zoning map or text amendment for a Development Impact Project shall be granted or adopted unless the following requirements are met in addition to those set forth in Section 26A-3:

1. The person or persons making application for a variance, conditional use permit, exception, or zoning map or text amendment to erect, substantially rehabilitate, enlarge, or extend a structure pursuant to a Development Impact Project Plan approval shall also have entered into an agreement with the Authority to make a Jobs Contribution Grant in the amount specified in (a) below.
 - (a) For each use listed in Table E, a Jobs Payment Contribution of one dollar (\$1.00) for each square foot of gross floor area in excess of one hundred thousand (100,000) square feet, shall be required. Uses, other than accessory parking, that are accessory to the uses listed in Table E shall also be subject to the Jobs Contribution Grant.

TABLE E: Development Impact Uses

<u>Use</u>	<u>Use Item Numbers</u>
Office	39, 39A, 40, 41, 42
Retail Business and Service	30, 31, 32, 34, 34A, 35, 36, 36A, 37, 37A, 38, 38A, 43, 44, 45, 46, 47, 48, 49, 60, 60A, 61
Institutional and Educational	16, 16A, 18, 19, 20, 20A, 21, 22, 22A, 23, 24, 29
Hotel and Motel, but not including Apartment Hotel	15

- (b) For mixed-use structures in which one or more of the above uses are combined, the above requirements shall apply if the gross floor area devoted to any one or more of the uses shall in the aggregate exceed one hundred thousand (100,000) square feet.
- (c) The formula (amount and rate of payment) for the Jobs Contribution Grant for the use categories listed in Table E shall be subject to recalculation three (3) years after the effective date of this provision and every three (3) years thereafter. The Authority, after public notice and public hearing, where appropriate, shall make a recommendation to the Zoning Commission to amend the formula for the Jobs Contribution Grant, based on a consideration of the following criteria:

- (i) Economic trends measured in terms of, including but not limited to, development activity, commercial rents per square foot, employment growth, and inflation rates.
- (ii) Employment trends measured in terms of, including but not limited to, unemployment rates, and statistics on job training programs.

The resulting analysis will determine the changes in the City's employment training needs and the continuing ability of new, large-scale development to assist in meeting the employment training needs of the City.

- (d) The Commissioner of Inspectional Services shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a Development Impact Project Plan, unless the Director of the Authority has certified on the application therefor, and on each plan, drawing or specification filed with the Commissioner in connection therewith, that the plans have been subject to design review, and that the plans are consistent with the Authority-approved Development Impact Project Plan and that the applicant has entered into an agreement with the Authority, as provided in Sections 26B-2(3) and 26B-3(1).

2. The following are not Development Impact Projects and will not be subject to the Development Impact Project requirements:

- (a) Any structure or structures for which a building or use permit is lawfully issued before notice of hearing before the Zoning Commission has first been given respecting adoption of Article 26B, provided that construction work under such a permit is commenced within six (6) months after its issue, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances;
- (b) Any building or structure for which construction or permanent financing has been secured before notice of hearing before the Zoning Commission has first been given respecting Article 26A, as evidenced by an irrevocable written commitment of a lending institution or a recorded mortgage indenture, and by the borrower's bona fide payment of a loan commitment fee; or
- (c) Any building or structure which is, or will be, wholly-owned by one or more public agencies.

SECTION 26B-4. Severability. The provisions of this Article are severable, and if any such provision or provisions shall be ruled invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Article.

Approved as to form:

Corporation Counsel

Petitioner: _____

By: _____

Stephen Coyle, Director

Address: _____

Tel. No. _____

Date: _____

RACKEMANN, SAWYER & BREWSTER

PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
ONE FINANCIAL CENTER

BOSTON, MASSACHUSETTS 02111-2659

January 22, 1986

BY HAND

Board of Directors
Boston Redevelopment Authority
Boston City Hall, 9th Floor
One City Hall Plaza
Boston, MA 02201

Re: Proposed Articles 26A and 26B
of the Boston Zoning Code

Dear Board Members:

I am writing with regard to the proposed insertion of Articles 26A and 26B into the Boston Zoning Code (the "Code"). My firm represents a number of clients who own facilities located in Boston or who have constructed or are constructing facilities in Boston. In the course of such representation we have had occasion to deal with Article 26 of the Code. I offer the following comments with respect to proposed Articles 26A and 26B and their relationship to Article 26 for your consideration.

As proposed, Section 26A-3(4) of Article 26A provides as follows:

Article 26A supplements and does not repeal Article 26, which shall continue to apply to Development Impact Project Plans that were approved pursuant to Article 26.

It appears that the effect of this section is that Development Impact Project Plans previously approved pursuant to Article 26 be governed by Article 26 and also by Article 26A unless they fall within the exceptions listed in Section 26A-3(3). I do not think, however, that it is your intent

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to require that previously approved Development Impact Project Plans which are not exempted by Section 26A-3(3) be resubmitted to the Authority for approval under Article 26A. To eliminate any question as to whether a Development Impact Project Plan previously approved under Article 26 meets the requirements of Article 26A and to eliminate any need for further action by the Authority on such plans, I suggest that the intent of Article 26A be clarified by adding the following sentence to the end of Article 26A-3(4):

Development Impact Project Plans and Development Impact Project Agreements approved pursuant to Article 26 prior to the effective date of Article 26A shall be deemed to satisfy Article 26A.

Similarly, in order to eliminate the need for further action by the Authority on Development Impact Project Plans previously approved pursuant to Article 26 and to be fair to the proponents of projects who have entered into Article 26 contracts and have taken the amounts due under these contracts into account when structuring their projects, I believe a provision consistent with that which appears in the current draft of Section 26A-3(4), as amended by my suggested addition thereto set forth above, should be added to Article 26B.

Lastly, there appears to be a concern reflected in the proposed drafts of Articles 26A and 26B that the status of Article 26 not be jeopardized by the adoption of Articles 26A and 26B. Accordingly, as proposed the Articles supplement rather than replace the existing linkage provisions. As a result, however, if Articles 26A and 26B are adopted, future Development Impact Project Plans will require approval under all three Articles, even though the terminology in the Articles differs and the payment schedule for downtown projects in Article 26A differs from the payment schedule applicable to such projects under Article 26. This may create confusion for the Authority and for project proponents. Therefore, I would suggest that once Articles 26A and 26B have been adopted, the Board consider amending Article 26 to limit its applicability to Development Impact Project Plans approved prior to the effective date of Articles 26A and 26B.

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Thank you for your consideration of my comments and suggestions.

Respectfully submitted,

Lawrence E. Kaplan

Lawrence E. Kaplan

cc: Edith Netter, Esq., Assistant Director
for Land Use and Environmental Policy
Linda Bourque, Director of Zoning

BOSTON REDEVELOPMENT AUTHORITYChairman's StatementJanuary 23, 1986

THE CHAIRMAN: Members of the Authority and ladies and gentlemen. This is a public hearing being held by the Boston Redevelopment Authority pursuant to Chapter 121A of the Massachusetts General Laws, as amended, and Chapter 652 of the Acts of 1960. The First Amendment to the 121A Application of Post Office Square will be considered at the hearing.

This hearing was duly advertised on January 13, 1986, in The Boston Herald.

An Application has been filed by Post Office Square for a First Amendment to their Report and Decision approved by the Authority on May 10, 1984. The subject of the Application is the Post Office Square Redevelopment Project. The Project consists of the acquisition of a parcel of land in Boston containing approximately 1.56 acres and bounded by Congress, Franklin, Pearl and Milk Streets, the demolition of the public parking garage now located thereon and the construction of a new underground parking garage and grade level park.

The Authority shall not entertain or consider at this public hearing any evidence, opinion, or views not relating to the Amendment of this 121A Application or regarding any program or project which is outside the area here involved.

All statements from the floor shall be directed to the members of the Authority. No person shall be permitted to speak, however, unless and until recognized by the Chair. Once recognized by the Chair, such person shall state clearly his name and address and that of any individual or group, he or she represents.

First, the Applicant and any other persons in support of the Application will be heard. Following that, we shall hear from those persons who wish to speak in opposition to the proposal before the Authority. Then if necessary, there will be a short period in which evidence or arguments in rebuttal may be presented.

The Authority wishes to insure that this public hearing will be conducted in a fair and orderly fashion in order that those persons who are directly affected by this proposal will have adequate opportunity to express their views and opinions.

We will now hear the Applicant.